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JAN 28 2004

In re Application of
Neil P. Desai et al
Application No. 09/446,783
Filed: May 16, 2000
Attorney Docket No. VPHAR1460-2

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: OFFICE OF PETITIONS
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: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 3, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 to prior-filed applications.

The petition is **dismissed** as moot.

The instant application was filed on May 16, 2000. A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. See MPEP 1481 and 65 F.R. 57024 (Sept. 20, 2000). Therefore, the petition is dismissed as involving a moot issue.

In view of the above, the two \$1,330 surcharge fee charged to petitioner's deposit account will be credited in due course.

Any inquiries concerning this decision on petition may be directed to Frances Hicks at (703) 305-8680.

This application is being forwarded to Technology Center AU 1616 for examination on the reply received November 3, 2003.


Frances Hicks

Lead Petitions Examiner
Office of Petitions
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for Patent Examination Policy